

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

CLIFFORD D. WILLIAMS,

Petitioner,

v.

BETTY J. MITCHELL, WARDEN,

Respondent.

CASE NO. C-1-99CV438

JUDGE SMITH

MAGISTRATE JUDGE KING

*Death Penalty Case*

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**PETITIONER WILLIAMS' STATUS REPORT  
REGARDING STATE COURT PROCEEDINGS**

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Petitioner Clifford D. Williams, through counsel, in accordance with this Court's September 19, 2002 Order (Dkt. #56), granting Petitioner an abeyance to return to state court and requiring Petitioner to promptly advise the Court upon completion of state court proceedings, hereby provides notice that Petitioner's pursuit of a new trial based on newly discovered evidence in the state courts of Ohio has been completed. Petitioner's constitutional claims raised in his state court motion for new trial have been exhausted for purposes of federal habeas review.

For the convenience of the Court, a summary of the state court proceedings is as follows:

On February 12, 2002, Petitioner Williams filed his motion for a new trial in the Butler County Court of Common Pleas. That motion was based on newly discovered evidence acquired in federal habeas discovery via the December 14, 2001 deposition of state's witness Jeff Wallace. In his Reply to the State's memorandum in opposition, Petitioner explicitly requested

an evidentiary hearing. No evidentiary hearing was granted. Oral argument on the motion was conducted before the trial court on September 9, 2002. On December 4, 2002, the trial court entered its decision denying the motion

Petitioner timely appealed the trial court's denial of his request for a new trial to the Court of Appeals for the Twelfth Appellate District of Ohio. On November 3, 2003, the Twelfth District Court of Appeals issued its Judgment Entry affirming the trial court's denial of the new trial motion.

Following the decision of the Twelfth District Court of Appeals, Petitioner timely filed a Memorandum in Support of Jurisdiction with the Ohio Supreme Court. On April 28, 2004, the Ohio Supreme Court issued its entry declining jurisdiction. Thereafter, Petitioner was afforded ninety days, *i.e.* until July 27, 2004, to file a petition for writ of certiorari with the United States Supreme Court. Petitioner contemplated filing a Supreme Court petition but ultimately opted not to do so. Petitioner therefore submits the instant status report informing this Court that his state court proceedings regarding his new trial motion have been completed.

In light of the nearly two years lapse of time spent returning to state court, Petitioner respectfully suggests that this Court convene a status conference with the parties to discuss the current status of his federal habeas action and to clarify the proceedings to ensue.

Respectfully submitted,

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s/ Timothy R. Payne  
TIMOTHY R. PAYNE – 0069329  
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COUNSEL FOR PETITIONER

CERTIFICATE OF SERVICE

I hereby certify that on August 10, 2004, I electronically filed the foregoing PETITIONER WILLIAMS' STATUS REPORT REGARDING STATE COURT PROCEEDINGS with the Clerk of the Court using the CM/ECF system, and served a copy of said document by regular U.S. Mail, postage prepaid on Carol Ann Ellensohn, Assistant Attorney General, Capital Crimes Section, 30 East Broad Street, 23rd Floor, Columbus, Ohio 43215-3428, on this 10th day of August, 2004.

s/ Timothy R. Payne  
Timothy R. Payne  
Counsel for Petitioner